

REMARKS/ARGUMENTS

1.) Claim Amendments

Claims 1-14 are pending in the application. The Applicant has amended claims 1 and 8-10. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

3.) Claim Rejections – 35 U.S.C. § 101

On Page 2 of the Office Action, the Examiner rejected claims 8-14 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner stated that the various “means” recited in independent claim 8 are not limited to hardware, and may be directed to software *per se*.

The Applicant has amended claim 8 to delete the term “means” and to recite the various components illustrated, for example, in Fig. 5. Fig. 5 is a block diagram of a multimedia communication server MCS 48, a device which connects to a physical network as shown in FIG. 4.

Basis for the amendments to claim 8 are as follows:

- (a) call control processor: Call Control 302;
- (b) database: RAS Address Database 502;
- (c) funnel detection unit: Funnel Detection 501; and
- (d) codec selection unit: Codec Selection 301.

The originally filed international application states that the various functional elements (e.g., in Figs. 2 and 5) are accomplished by means of processing means, implementing the service logic, and communication means that provide communication with further functional elements (and/or access to databases). (Page 9, lines 1-12). It is quite clear that “processing means implementing service logic” equates to a hardware processor running a software program. Thus, the depicted blocks in Figs. 2 and 5 are statutory subject matter. Therefore, the withdrawal of the § 101 rejection of amended claim 8 and dependent claims 9-14 is respectfully requested.

4.) Claim Rejections – 35 U.S.C. § 103(a)

On Page 3 of the Office Action, the Examiner rejected claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over Riddle (US 6,175,856) in view of Garakani, et al. (US 6,578,087). The Applicant has amended the claims to better distinguish the claimed invention from Riddle and Garakani. The Examiner's consideration of the amended claims is respectfully requested.

Claim 1 and its dependent claims have been amended to emphasize that the recited method is performed by a server. Basis for the amendment is the "multimedia communications server" MCS 48 described in the specification, for example, with reference to Fig. 5.

The Examiner contends that Riddle discloses steps (a) and (b) while Garakani discloses steps (c) and (d). The Applicant respectfully disagrees.

The Examiner cited Riddle (col. 8, lines 42-52 or col. 9, lines 2-6) for disclosing step (a). However, Riddle does not disclose or suggest step (a) because Riddle says nothing about a funnel network element linking first and second physical networks. The "funnel network element" of claim 1 is an element that links at least two different physical networks, and that limits the available bandwidth. Claim 1 has been amended to recite these features more clearly. The funnel network element is similar, for example, to the router 17 of Riddle (Fig.1; col. 3, line 54 – col. 4, line 11). However, Riddle does not take into consideration this kind of element in the codec selection process, and Riddle does not disclose any storage of information about this kind of element. Instead, Riddle only describes compressors, and merely discloses the selection of a suitable codec based on compressors that will be used in a communication.

Additionally, Riddle (col. 7, lines 60-64 or col. 9, lines 2-16) does not disclose step (d) because the codec selection in Riddle is not performed based on information received in a reply to an address detection message, which is compared with address information previously stored about funnel network elements. The quoted references merely disclose that the system may comprise a plurality of computer systems, and that they can negotiate the codec(s) to be used in a communication.

The combination of Garakani with Riddle does not render the features of claim 1 (or 8) for the reasons set out below.

Garakani discloses sending an address detection message towards an endpoint. According to Garakani, packet transmission path information can be obtained by sending address detection messages (e.g., address resolution protocol (ARP) messages). However, the address information that can be collected by receiving replies to these messages is not used in Garakani for codec selection purposes. In particular, there is no teaching or suggestion of selecting a codec depending upon whether an answer to an address detection message includes an address of a funnel network element, which links at least two different physical networks, and which limits the available bandwidth of a communication passing through the funnel network element.

In summary, the combination of Riddle and Garakani fails to disclose or suggest storing of information about existing funnel network elements, and determining a codec selection depending upon whether an address of a funnel network element is included in an answer to an address detection messages. Thus, a *prima facie* case of obviousness has not been established as required by MPEP 2143. Therefore, the withdrawal of the rejection under § 103 and the allowance of amended claim 1 are respectfully requested.

Claims 2-7 depend from amended claim 1 and recite further limitations in combination with the novel and unobvious elements of claim 1. Therefore, the allowance of claims 2-7 is respectfully requested.

Independent claim 8 is an apparatus claim corresponding to method claim 1. Claim 8 has been amended in a manner similar to claim 1. Therefore, the allowance of amended claim 8 is respectfully requested for the reasons discussed above.

Claims 9-14 depend from amended claim 8 and recite further limitations in combination with the novel and unobvious elements of claim 8. Therefore, the allowance of claims 9-14 is respectfully requested.

5.) Conclusion

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in condition for allowance. The Applicant, therefore,

respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-14.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would expedite the prosecution of the Application.

Respectfully submitted,



Steven W. Smith
Registration No. 36,684

Date: JAN. 7, 2009

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-1572
steve.xl.smith@ericsson.com